

Private Activity Bond Review Board

Policies and Procedures

Manufacturing Facility Applications

The Private Activity Bond Review Board for the State of Utah (PAB) is the designated allocating and administrating authority for tax-exempt bonds commonly referred to as “Volume Cap.” Each year the State of Utah is granted authority by federal regulations to allocate tax-exempt bonds (Volume Cap) for qualified developments. The percent allocation of the annual Volume Cap has been defined by legislation by the State Legislature. Multi-family affordable housing and manufacturing receive equal percentages from the Small Issues account in January of each year. In July, the unused Volume Cap for multi-family housing and manufacturing facilities is combined and redistributed on a 50/50 basis. In October, the unused Volume Cap for multi-family, manufacturing and exempt facilities is combined and distributed by the PAB according to the governing rules.

In response to the intense competition for Volume Cap and recognizing it is a scarce and important financial resource, the PAB has approved the Application for Manufacturing Facilities and has also adopted guidelines to evaluate the applications for manufacturing facilities. Applications will be evaluated by certain criteria established by PAB outlined and as written in the enabling legislation. The PAB reserves the right to change or amend the criteria when or if the PAB deems necessary and giving sufficient notice to the public.

The criteria used evaluate the applications are guidelines used by the applicants, staff and manufacturing subcommittee of the Private Activity Bond Review Board. The manufacturing subcommittee and PAB reserve the right to accept or reject the conclusions of the staff’s evaluations and recommendations. The Board will exercise its prerogative in a prudent manner. Furthermore, the PAB reserves the right not to allocate tax-exempt bonds at any meeting (s) held for that purpose.

The PAB will determine the place and time of the public meeting for the allocation of Volume Cap.

The allocation of tax-exempt bonds for a manufacturing facility must meet the goals of the PAB. These goals are outlined as follows:

1. **Application - Creation of New Jobs:**

A primary goal of bonds provided by the PAB is to generate new jobs. In evaluating this, only the jobs created in first three years of the facility’s operations are considered in the evaluation, although new jobs in the future are important. Further, only the direct jobs or those at the facility are considered. Companies building and operating a new facility or renovating an older building in areas of high unemployment receive special consideration.

2. **Above average wages:**

Manufacturing facilities that generate new jobs or retain existing jobs at higher than average wages meet an important goal of the program. Additionally, the distribution of

wages for new and existing jobs is an important and related consideration. If possible, the facility's wages will be compared to the community in which the facility is located; if data isn't available, they will be compared to the countywide wages.

3. Retention of Jobs:

In this fluid economic environment, retaining existing jobs is as important as creating new jobs. Recognizing it is difficult to quantify retention, applicants should present as much information and data regarding job retention as possible and its impact on the community.

4. Training and education of employees:

Companies offering job training, education and assistance to an employee's education will be favorably considered by the PAB. For this consideration, applicants are required to detail the job and education programs offered by the company and if possible, data summarizing employee participation.

5. Bonds/Job Ratio:

The efficient use of Volume Cap is a singularly important objective. One measure used to gauge the efficiency is a bond per job ratio or the amount of bonds requested per new job created. Using less Volume Cap allocation per new job is positive. To achieve this, applicants are encouraged to combine bonds with other financing.

6. Community Support:

The PAB considers community support important. Community support includes an approved TEFRA hearing, financial support, zoning approval, the creation special improvement districts, tax increment financing and/or waiver or deferral of fees. As evidenced by these examples, community support must be a tangible contribution to the proposed project.

7. Building and Equipment:

Tax-exempt bonds can finance the construction or renovation of manufacturing facilities and the acquisition of new and used equipment. It is the responsibility of the applicant to demonstrate that these costs and expenses are competitive.

8. Need:

Too often applicants express the need for Volume Cap as simply wanting a lower interest rate. The application requires a realistic cash flow for the first three (3) years of operation, which demonstrates the need for tax-exempt financing. It is the responsibility of the applicant to demonstrate this need. As part of the cash flow analysis, the applicant should also compare variable and fixed rates and explain the reasons for the selection. Further, if the applicant is making an equity contribution, this should be explained in detail.

9. Ready-to-go Status:

Property for the manufacturing facility must be zoned for use. This is a threshold requirement. The applicant should also address:

- a. Proximity of infrastructure to site.
 - b. Need for special infrastructure (i.e. spur line).
 - c. Environmental study, if required by the lender.
 - d. Current title report and site plan of project.
 - e. If available, building description (this should also be included in construction costs).
- Applicant should be aware that staff might contact appropriate city and county departments.

10. Financing:

Because manufacturing PAB allocations face a one-year period to close, it is vital that at the time of application, the applicant detail the status of the project's financing. The applicant should be aware that staff of PAB might contact lender. Other related steps are:

- a. Selection of bond counsel.
- b. Selection of investment banker or if private placement, buyer of the bonds.
- c. Detailed commitment letters from all financial entities involved.
- d. Letter from bond counsel opining that project qualifies for PAB.

Applicants are encouraged, and will receive special consideration, to have the necessary financing steps completed at time of submission.

Applications will be evaluated using these factors. Applicants are responsible to provide complete, accurate and verifiable information. The Private Activity Bond Review Board reserves the right to use other criteria if appropriate.

Application Process

Persons or entities applying for tax-exempt bond financing must comply with the following procedures. Failure to comply with any procedure or requirement can result in the disqualification of the application. PAB Staff is willing to assist applicants and answer questions regarding the application process and evaluation. Applicants are encouraged to use this resource. Staff, however is not allowed to make suggestions, recommendations or otherwise assist an applicant regarding the proposed project.

1. An application for tax-exempt bonds is available through a link on the web site for State of Utah, Division of Community and Culture, Private Activity Bond Review Board.
http://community.utah.gov/housing_and_community_development/PAB/index.html
2. Applicants can also obtain an application at the offices of the Division of Community and Culture, 324 South State Street, Suite #500, Salt Lake City, 84111. It should be noted that prior to submitting the application, staff is available to answer the applicant's questions. A preapplication meeting can be arranged with staff.
3. Submit three (3) sets: completed PAB Application Form, signed, attaching any additional pages and a disc. Include all application exhibits: 3-year pro-forma, building and equipment costs. The applications and one (1) disc must be delivered to the Division of Community and

Culture, 324 South State, Suite #500, Salt Lake City, 84111, no later than 5:00 p.m. on the final date of submission. Late applications will not be accepted for that cycle.

4. The exhibits of the application include, but are not limited to:
 - a. Complete application with signature and all necessary exhibits.
 - b. Non-refundable fee - The schedule of fees is available on the website.
 - c. Brief narrative description of the development.
 - d. Evidence of site control.
 - e. Signed letters of intent or commitment from all financial sources (banks, lenders, investors) detailing terms and conditions of commitment(s).
 - f. Resumes and financial statements for applicant or sponsor.
 - g. Evidence the property is zoned and the development schedule of activities, including start of construction, completion of construction, and closing of bonds.
 - h. Resumes of development team: architect, general contractor, and project manager.
5. Once the application is submitted no further information can be submitted unless requested by staff.
6. Staff will review the application as to its completeness. In the event staff requests additional information or clarification, the applicant has 10 working days to respond. Failure to respond can result in the rejection of the application for the current round.
7. Staff will rate the project using the goals and objectives established by the PAB Board. Developments, however must meet PAB threshold qualifications, which are appropriate zoning for the facility and evidence of site control.
8. The PAB has established priorities as guidelines for the allocation of Volume Cap. The PAB may consider such additional criteria it deems necessary in its discretion to achieve maximum benefit of the available resources.
9. If after review by staff, there is disagreement or inconstancy with any information submitted, applicant shall be notified by FAX outlining the difference(s). Applicant will have 10 working days to respond to staff's findings. The PAB reserves the right to disqualify any application for incompleteness or other failings. If disqualified, a FAX or letter will notify the applicant. The applicant may request a meeting with PAB Staff for clarification.
10. The PAB Board has established a manufacturing subcommittee, which shall review the applications and staff's findings prior to the board meeting. The subcommittee shall recommend to the PAB Board the subcommittee's findings and its selections for Volume Cap. The PAB Board reserves the right to accept or reject the recommendations of the subcommittee and staff for good cause.
11. Applicants will have the opportunity to present the details of their project to the PAB Board. The applicant can only make such presentations. The applicant can invite others to the meeting but unless asked a specific question by the board, they may not add to the presentation. Applicants will only have a specified amount of time to make the presentation unless the board extends the time.

12. Applicants awarded Volume Cap may not transfer the award to other projects or persons. All costs incurred in the application or development process are the sole responsibility of the applicant.
13. Complying with federal regulations, the PAB Board has established as a guideline a maximum allocation of \$12 million for any one manufacturing facility requesting Volume Cap.
14. PAB may disallow developments with a conflict of interest, identity or affiliation between any of the principal parties. The PAB may consider applicant's financial, development and or management abilities beyond the information provided in the application as factors for selection.
15. All decisions of PAB are subject to additional conditions, restrictions and requirements as determined by PAB in its sole discretion. Applicant will be notified in writing of the additional requirements.
16. The PAB is committed to a policy, which prohibits discrimination against persons based on race, religion, gender, national origin, handicap, familial status or age in its program.

Process for Extensions

1. Recognizing the complexity of tax exempt financing, extensions may be requested by those who have been awarded Volume Cap. Approval of the board is required for all extensions. Extensions are for 90 days.
2. The PAB Board without requiring a fee or imposing any special conditions will approve the first extension after the date of allocation.
3. Extensions after the first extension must meet the following:
 - a) A fee for the extension will be required (schedule of fees is available on the web site).
 - b) Acting on behalf of the manufacturing subcommittee or the board, additional information can be requested and such information must be submitted two (2) weeks before the board meeting - Failure to comply with this can result in disqualification.
 - c) If there is any changes whatsoever to the project, the applicant is required to notify staff as soon as possible, prior to the next PAB meeting. If changes significantly alter the project, the applicant may be required to submit a new application. PAB reserves the right to withdraw the original allocation and evaluate the newer application.
 - d) A revised schedule of activities.
 - e) A summary detailing the reason(s) for the extension.
4. The PAB Board reserves the right to accept or reject the recommendation of the housing subcommittee regarding the request for extension.
5. Manufacturing projects have different rules governing the extensions than those for multifamily projects. Applicants are encouraged to review the specific rules for manufacturing or to seek bond counsel.

6. Manufacturing projects approved for Volume Cap must close within the calendar year of the awarded allocation. Further, closing (selling or placement of the bonds) must occur no later than the third Friday in December of the year of allocation.
7. At the discretion of the PAB Board, an applicant may make a brief presentation explaining the need for the extension. PAB reserves the right to postpone a decision for any reason.
8. If the PAB Board does not grant an extension, the applicant can compete for Volume Cap by resubmitting a new application at anytime for the extension. The applicant must pay the full application fee. The application shall be reviewed without prejudice.

Compliance

Any conditions or restrictions required by PAB must be adhered to. The applicant agrees to provide documentation demonstrating compliance.

The applicant understands that representations made in the application are binding and subject to verification by PAB or its agent(s). PAB also understands the uncertainty of meeting some representations (sales and cash flow projections, construction costs, financing costs) and acknowledges the applicant is not strictly held to these representations.

If for any reason, the applicant is unable to meet conditions or restrictions required by PAB, applicant will notify PAB in writing as to the circumstances preventing or modifying compliance. PAB reserves the right to accept or reject explanation.

Summary

The Private Activity Bond Review Board is implementing an evaluation process as a way to objectively compare competing applications to ensure an optimum use of Volume Cap. Every attempt is made to achieve this.